

### **REMARKS**

This amendment is submitted in response to the Examiner's Action dated November 24, 2003. Applicant has amended the claims to clarify key features of the invention and overcome claim rejections. Applicant has also provided several new claims covering additional features of the invention, which are described in the specification. No new matter has been added, and the amendments place the claims in better condition for allowance. Applicant respectfully requests entry of the new claims and the amendments to the claims. Where discussion/arguments are provided below in response to the claim rejections, those arguments reference the claims in their amended form.

### **CLAIMS REJECTIONS UNDER 35 U.S.C. § 102**

In the present Office Action, Claims 1-17 and 19-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lewis (U.S. Patent No. 5,684,861). Lewis does not anticipate Applicant's claimed invention because Lewis does not teach each feature recited by Applicant's claims, which now includes features of new claims 21-24.

Applicant's independent claims provide the following hardware configuration and functional features: (1) "internal processor and memory and built-in display device and keyboard"; (2) "monitoring time usage for calls on said cellular phone via said internal processor and memory"; and (3) "displaying available time of said service plan on the built-in display device of said cellular phone."

Lewis, in contrast, provides a separate add-on (and external) device that tracks minute usage by directly/physically monitoring transmission signals to and from the antenna of the cellular telephone unit. That is, unlike Applicant's invention, which provides internalized monitoring, tracking and displaying of usage information via the processor, memory and display device internal to the cellular telephone system itself, Lewis provides an external device having a separate processor, memory and display device (other than those of the cellular system) to complete the tracking features.

In addition to this significant difference in hardware configuration and associated functional implementation, Lewis also fails to teach (or suggest) several additional functional features of Applicant's claimed invention. Among these functional features are:

(1) **providing a user-selectable option for tracking available usage time ...within a menu of available options** provided by internalized applications of said cellular telephone;

(2) **displaying available minutes information on said built-in display device, wherein said displaying information is ...displaying a time tracking bar** indicative of a percentage of available minutes remaining..." or "concurrently displaying selected by a user, said displaying step concurrently displays both a numerical output and said graphical bar.

(3) **"pre-selecting a non-zero threshold number of minutes of time at which to alert a user that the available usage time within said service plan is approaching an exhaustion point or zero available minutes;"**

While Lewis allows the user to enter the service plan information, Lewis' implementation of a separate device excludes the functionality of providing these input features as a part of the menu options of the cellular phone itself. Also, Lewis is devoid of any teaching or suggestion of the time bar functionality provided by several of Applicant's claims. The section cited by Examiner to support a teaching of this feature, (i.e., Col.12, lines 15-20), describes "a visual alarm 20 such as an LED light source which alerts the user when no time is available". Clearly, this "no time is available" indicator is not synonymous with nor suggestive of a time tracking bar that indicates the actual amount of available time left.

Finally, Lewis teaches away from a non-zero threshold at which a user is alerted that the available time is expiring. Lewis clearly states that the user is alerted when no more time is available (i.e., once the available time goes to zero). However, unlike what is provided by Applicant's claims, there is no alerting functionality that alerts the user when only a pre-set small number of minutes are available for use under the service plan. Lewis also fails to provide a teaching of the benefits of alerting the user of the approaching exhaustion of the available time. These benefits include is the ability to caution the user against going over the service allotment of time and incurring the large overage fees that would be incurred with Lewis' "alert at zero" implementation.

In addition to the above reasons, the features of the new claims are also not taught nor suggested by Lewis. The standard for a § 102 rejection requires that the reference teach each element recited in the claims set forth within the invention. As clearly outlined above, Lewis fails to meet this standard and therefore does not anticipate Applicant's claims.

**CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

In the present Office Action, Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Raith (U.S. Patent No. 6,493,547). Claim 18 is dependent on Claim 17, which Applicant has shown is allowable over Lewis. The features of dependent Claim 18 are therefore also allowable over the present combination of references.

**CONCLUSION**

Applicant has diligently responded to the Office Action by amending the claims to clarify features within specific claims and by explaining why the claims are not anticipated by Lewis or obvious over the combination of Lewis and Raith. Since the amendments overcome the §102 and § 103 rejections, Applicant, respectfully requests issuance of a Notice of Allowance for all claims now pending.

Applicant also respectfully requests the Examiner contact the undersigned attorney of record at (512) 542-2100 if such would further or expedite the prosecution of the present Application.

Respectfully submitted,



Eustace P. Isidore

*Registered with Limited Recognition (see attached)*

BRACEWELL & PATTERSON, L.L.P.

P.O. Box 969

Austin, Texas 78767-969

(512) 542-2100

ATTORNEY FOR APPLICANT(S)

**BEFORE THE OFFICE OF ENROLLMENT AND DISCIPLINE  
UNITED STATE PATENT AND TRADEMARK OFFICE**

**LIMITED RECOGNITION UNDER 37 CFR § 10.9(b)**

Eustace P. Isidore is hereby given limited recognition under 37 CFR §10.9(b) as an employee of Bracewell & Patterson, LLP to prepare and prosecute patent applications and to represent applicants wherein the patent applicants are clients of Bracewell & Patterson, LLP, and the attorney or agent of record in the applications is a registered practitioner who is a member of Bracewell & Patterson, LLP. This limited recognition shall expire on the date appearing below, or when whichever of the following events first occurs prior to the date appearing below: (i) Eustace P. Isidore ceases to lawfully reside in the United States, (ii) Eustace P. Isidore's employment with Bracewell & Patterson, LLP ceases or is terminated, or (iii) Eustace P. Isidore ceases to remain or reside in the United States on an H-1B visa.

This document constitutes proof of such recognition. The original of this document is on file in the Office of Enrollment and Discipline of the U.S. Patent and Trademark Office.

**Expires: May 8, 2004**



**Harry Moatz,  
Director of Enrollment and Discipline**